

**REMARKS**

This is a response to the final Office Action of August 24, 2004.

**I. SUMMARY OF OFFICE ACTION**

In the Office Action, the Examiner stated that the finality of the previous Office Action has been withdrawn pursuant to 37 C.F.R. § 1.114 and that Applicant's submission filed on October 4, 2004 has been entered.

The Examiner stated that new Claim 69 is withdrawn from consideration as being directed to a non-elected invention since the Applicant has received an action on the merits for the originally presented invention and newly submitted Claim 69 is directed to an invention that is independent or distinct from the invention originally claimed.

Claims 29, 30, 35, 36 and 68 were rejected under 35 U.S.C. § 102(e) as being anticipated by Alameh et al. (U.S. Patent No. 6,348,897). Claims 1, 4, 8, 11, 12, 17, 21, 25 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. (U.S. Patent No. 6,348,897) in view of Lockhart (U.S. Patent No. 6,173,189) based on a view that it would have been obvious to one of ordinary skill in the art to use Lockhart's base station having a four channel transmitter in Alameh's communication system in order to insure that four channel transmissions are carried out appropriately using the desired over-the-air protocol such as an interrogation protocol. Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart as applied to Claim 1 above, and further in view of Talisa et al. (U.S. Patent No. 5,878,334) based on a view that it would have been obvious to one of ordinary skill in the art to modify Alameh et al. and Lockhart's base station to comprise Talisa's receiver in order to provide minimal loss and compact receive front-end components.

Claims 5-7, 10, 13-16, 22, 23 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart in view of well known prior art (Official Notice). Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart, and further in view of Cheung et al. (U.S. Patent No. 6,541,908) based on a view that it would have been obvious to one of ordinary skill in the art to provide the

organic polymer emissive display application as the display in Alameh and Lockhart's communication device in order to have a miniature display with high resolution and low cost.

Claims 18 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart, and further in view of Spall et al. (U.S. Patent No. 6,097,934) based on a view that it would have been obvious to one of ordinary skill in the art to modify Alameh and Lockhart with Spall's antennas such that the antenna is either a dipole or patch antenna, in order to provide a suitable antenna as desired to provide the portable device with the proper application. Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart, and further in view of Kikinis (U.S. Patent No. 5,728,031) based on a view that it would have been obvious to one of ordinary skill in the art to modify Alameh et al. and Lockhart with Kikinis, such that the device has a voice response capability in order to provide a user with optional convenient method for entering information into the device.

Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart, and further in view of Dennison et al. (U.S. Patent No. 5,235,633) based on a view that it would have been obvious to provide GPS for providing location that is uploaded to a base station for the benefit of handing off the device to a cell site that is appropriate and provides good quality communications.

Claims 31-33, 37-39, 40 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. in view of well known prior art (Official Notice). Claim 34 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al., and further in view of Cheung et al. (U.S. Patent No. 6,541,908) based on a view that it would have been obvious to one of ordinary skill in the art to provide the organic polymer emissive display application as the display in Alameh's communication device in order to have a miniature display with high resolution and low cost as taught by Cheung et al.

Claim 44 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al., and further in view of Spall et al. (U.S. Patent No. 6,097,934) based on a view that it would have been obvious to one of ordinary skill in the art to modify Alameh et al. and Lockhart with Spall's antennas such that the antenna is either a dipole or patch antenna, in

order to provide a suitable antenna as desired to provide the portable device with the proper application.

Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al., and further in view of Kikinis (U.S. Patent No. 5,728,031) based on a view that it would have been obvious to one of ordinary skill in the art to further modify Alameh et al. as modified with Kikinis, such that the device has a voice response capability in order to provide a user with optional convenient method for entering information into the device.

Claim 46 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al., and further in view of Dennison et al. (U.S. Patent No. 5,235,633) based on view that it would have been obvious to provide GPS for providing location that is uploaded to a base station for the benefit of handing off the device to a cell site that is appropriate and provide good quality communications.

Claims 47-66 are allowed. However, the indicated allowability of Claims 1, 2, 4-28 was withdrawn in view of the newly discovered reference(s) providing the basis for the rejections set forth above.

Lastly, the Examiner indicated that the prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure.

## **II. APPLICANT'S RESPONSE**

### **Claims 1, 2 and 4-28**

In the Office Action, Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. in view of Lockhart. In response to the Examiner's rejection, Applicant has amended Claim 1 to further recite that the sheet is sized and configured to cover the man machine interface to protect the interface from the environment. The basis for the amendment may be found in Figures 3 and 6.

The cited prior art does not disclose such limitation. In Alameh et al., the sheet does not cover the man machine interface when the sheet is in the folded position. In support thereof, Applicant respectfully directs the Examiner's attention to Figure 6 which is believed to illustrate the folded position of the sheet. Also, Applicant respectfully directs the Examiner's attention to col. 6, lns. 57-60 which recite that the device (i.e., phone) is still

accessible even if the sheet is in the folded position. Alameh et al. recites that phonebooks, email, and download data of the device may be accessed via an electronic port. This implies that the port is open to the environment such that a communications cable may be connected to the electronic port. In other words, the electronic port (i.e., the man machine interface) is not covered by the sheet when the sheet is in the folded position. Hence, Alameh et al. does not disclose the limitation of the sheet covering the man machine interface when the sheet is in the folded position.

As stated in the background of the invention, commercial communications systems may not be suitable for military application. For example, if the sheet did not cover the man machine interface as in the cited prior art, then the man machine interface would be subject to the environment and subject to damage therefrom. In military applications, the man machine interface may be bumped and hit when the soldier is in hand to hand combat with the enemy thereby possibly damaging the man machine interface. The present invention, as recited in amended Claim 1, provides a sheet which covers the man machine interface when the sheet is in the folded position to protect the man machine interface from bumps or hits.

There is also no motivation to modify the Alameh et al. invention such that the sheet covers the man machine interface when the sheet is in the folded position based on a view that to do so would make unsatisfactory an intended purpose of the invention taught in Alameh et al. In support thereof, Applicant respectfully directs the Examiner's attention to the same passage above, namely, col. 6, lns. 57-60. At line 57, Alameh et al. teaches that an important part of the invention is that the device's programs and downloaded data are accessible even if the sheet is in the folded position. If the sheet of Alameh et al. were to cover the man machine interface (i.e., the electronic port), then the device's programs and downloaded data would not be accessible to the user. Hence, an important aspect of the Alameh et al. invention would be frustrated and the invention of Alameh et al. would be unsatisfactory for its intended purpose. Hence, Claim 1 is believed to be novel and non obvious with respect to the cited prior art. The dependent claims of Claim 1, namely, Claims 2 and 4-28 are also believed to be in condition for allowance based on a view that they contain additional patentable subject matter. Also, dependent Claims 2 and 4-28 are also

believed to be in condition for allowance to the extent that its base Claim 1 is also believed to be in condition for allowance.

In the Office Action, the Examiner rejected Claims 5-7, 10, 13-16, 22, 23 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Alameh et al. and Lockhart in view of well known prior art (Official Notice). In response, Applicant traverses such assertions and requests that the Examiner cite a reference in support of his/her position. *See*, MPEP Section 2144.03.

Claims 29-41, 44-46 and 70

Claim 29 was rejected as being anticipated by Alameh et al. In response, Applicant has amended Claim 29 to further recite that the flexibility of the card is equal to about the flexibility of the sheet.

The disclosure of Alameh et al. does not disclose that the flexibility of the card is about equal to the flexibility of the sheet, rather, the card has a maximum rigidity and the sheet is flexible. In support thereof, Applicant respectfully directs the Examiner's attention to column 3, lines 49-50 and column 4, line 28 which recites that the device of Alameh et al. has a metal housing and sheet is of a very flexible material. Hence, the disclosure of Alameh et al. does not disclose the limitation that the flexibility of the card is about equal to the flexibility of the sheet.

Furthermore, there is no motivation to modify the device of Alameh et al. such that the sheet's flexibility is equal to about the card's flexibility based on a view that such modification would render the device of Alameh et al. unsatisfactory for its intended purpose. In support thereof, Applicant respectfully directs the Examiner's attention to column 4, line 29 which recites that the sheet is of a flexible material to avoid breakage during use. If the sheet was fabricated from a rigid material, then the sheet would break during usage thereby defeating an express purpose of the device of Alameh et al. Hence, Applicant respectfully submits that Claim 29 is novel and non obvious over Alameh et al.

The dependent claims of Claim 29, namely, Claims 30-41, 44-46 and 70 also contain additional patentable subject matter which form the basis for the belief that they are also in condition for allowance. For example, new Claim 70 recites that the card is conformable to the sheet when the antenna is in the folded position. In Alameh et al., the card is not

conformable to the sheet when the antenna is in the folded position. As discussed above, the card is fabricated from a metal housing (i.e., rigid), whereas the sheet is fabricated from a flexible material. As such, the card is not conformable to the sheet when the sheet bends. Hence, the disclosure of Alameh et al. does not disclose the subject matter of Claim 70, and Claim 70 is believed to be in condition for allowance. The dependent claims of Claim 29, namely, Claims 30-41, 44-46 are also believed to be in condition for allowance based on a view that they also contain additional patentable subject matter. Furthermore, the dependent claims of Claim 29, namely, Claims 30-41, 44-46 and 70 are believed to be in condition for allowance to the extent that Claim 29 is believed to be allowable.

Claims 68, 71 and 72

Claim 68 was rejected under 35 U.S.C. § 102(e) as being anticipated by Alameh et al. In response, Claim 68 has been amended to further recite the same amending subject matter as the amending subject matter of amended Claim 1. Hence, Claim 68 is believed to be allowable to the extent that Claim 1 is believed to be allowable. Moreover, the dependent claims of Claim 68, namely, Claims 71 and 72 contain additional patentable subject matter which form the basis for which Claims 71 and 72 are believed to be in condition for allowance. In particular, Claim 71 recites the same subject matter as Claim 70 discussed above. Accordingly, Claim 71 is believed to be novel and non obvious over Alameh et al. to the extent that Claim 70 is believed to be novel and non obvious over Alameh et al. Also, Claim 71 is believed to be in condition for allowance to the extent that Claim 68 is believed to be in condition for allowance.

Furthermore, Claim 72 recites that the sheet is generally coplanar with the device when in the folded position. Applicant also respectfully requests the Examiner to note that the sheet is also generally coplanar with the device when in the folded position as recited in Claim 72's base Claim 68.

Alameh et al. does not disclose a sheet that is generally coplanar with the device when in the folded position and the unfolded position. In support thereof, Applicant respectfully directs the Examiner's attention to Figures 4 and 6 of Alameh et al. Figure 4 illustrates the sheet when in the unfolded position and Figure 6 illustrates the sheet when in the folded position. With respect to Figure 6, the sheet is not generally coplanar with the

device, rather, the sheet is generally perpendicular with the device. Also, the sheet when in the unfolded position is not generally coplanar with the device, rather, the sheet is offset from the device. Hence, the disclosure of Alameh et al. does not disclose a sheet that is generally coplanar with the device when in the folded position and the unfolded position.

Furthermore, there is not motivation to modify Alameh et al. such that the sheet is generally coplanar with the device when in the folded position and the unfolded position based on a view that such modification to Alameh et al. would render the device of Alameh et al. unsatisfactory for its intended purpose. Column 6, lines 61-65 state that the device may be carried in a wallet or back pocket without damage to the device. However, if the device of Alameh et al. was modified such that the sheet was generally coplanar with the device, then the sheet would protrude out from an edge of the device. As such, when the device is stored in the wallet or back pocket, the sheet would have a high tendency to deflect or break off from the device making it unsatisfactory for its intended purpose. Hence, Applicant respectfully submits that Claim 72 is novel and non obvious over Alameh et al. Also, Claim 72 is believed to be in condition for allowance to the extent that its base Claim 68 is believed to be in condition for allowance.

Hence, Claims 68, 71 and 72 are believed to be in condition for allowance.

#### Claims 47 - 67

In the Office Action, the Examiner indicated that Claims 47-66 are in condition for allowance. But in the Office Action Summary, the Examiner indicated that Claim 67 is also in condition for allowance. Since the Office Action itself did not reject Claim 67 on any basis and the prior Office Action indicated Claim 67 as being allowed, Applicants will treat Claim 67 as being in condition for allowance unless otherwise noted by the Examiner. Hence, Claims 47-67 are in condition for allowance.

#### Prior Art

Applicant acknowledges receipt of the prior art made of record and not relied upon, but considered by the Examiner to be pertinent to Applicant's disclosure. It is Applicant's belief that the cited art, either alone or in combination, does not anticipate, suggest, or make obvious the instantly claimed invention.

Application No.: 09/802,296  
Response to Final Office Action of December 8, 2004  
Attorney Docket: NORTE-424Q

### III. CONCLUSION

On the basis of the foregoing, Applicant respectfully submits that Claims 1-41, 44-68 and 70-72 are in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested. Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: Jan 5, 2005 By: \_\_\_\_\_

Customer No.: 007663

Bruce B. Brunda  
Bruce B. Brunda  
Registration No. 28,497  
STETINA BRUNDA GARRED & BRUCKER  
75 Enterprise, Suite 250  
Aliso Viejo, California 92656  
Telephone: (949) 855-1246  
Fax: (949) 855-6371

BBB/JCY

T:\Client Documents\norte\424q\NORTE 424Q response to oa 120804.doc